

REMARKS

Upon entry of the instant amendment, claims 1-6 will remain pending in the present application.

In the instant amendment, claims 1-3 have been amended. Also, new claims 4-6 have been added.

The instant amendment made herein to the claims does not incorporate new matter into the application as originally filed. For example, the amendment to claim 1 finds support on page 12, line 23 to page 14, line 3 of the specification and Figures of the present application. New claim 4 is based on the disclosure on page 16, lines 5-9 of the specification and Fig. 5 of the present application. New claim 5 is based on the disclosure in the last line on page 17, to page 18, line 21 of the specification and Figs. 8 and 9 of the present application. New claim 6 is based on the disclosure on page 19, lines 2-24 of the specification and Figs. 11 and 12 of the present application.

Accordingly, proper consideration of each of the pending claims is respectfully requested at present, as is entry of the present amendment.

Claim Rejections under 35 USC § 102

On page 2 of the outstanding Office Action, claims 1-3 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Kikuchi et al. (Microchannel Array Flow Analyzer for measurement of Whole Blood Rheology and Flow Characteristics of Leukocytes Activated by Bacterial Stimulation) (hereinafter, referred to as the Kikuchi reference).

Applicant respectfully traverses and requests that the Examiner withdraw the rejection based on the following considerations.

Legal Standard for Determining Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art.” *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001) “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Distinctions over the Cited References

The Kikuchi reference discloses an apparatus for measuring of whole blood rheology and flow characteristics of leukocytes therein, by which fluidity of flowing blood (e.g., a stream of blood) are measured.

However, the Kikuchi reference fails to disclose or suggest an apparatus for detecting chemotaxis of cells by which a behavior of each cell is detected effectively in a stationary liquid.

Consequently, the Kikuchi reference does not teach or suggest the present invention as recited in currently amended claims 1-3. The cited reference fails to disclose or suggest a significant feature of the present invention that is "a means of sealing said opening(s) in one or both of said cell-holding well and said specimen-holding well for preventing said liquid from an unexpected transportation thereof in said channel while detecting chemotaxis of cells," as recited in currently amended claim 1.

In addition, the Kikuchi reference also fails to disclose or suggest feature(s) of the present invention as recited in new claims 4-6.

Accordingly, as explained above, since the Kikuchi reference fails to disclose or suggest the features of the present invention, the claimed invention is not anticipated by the cited reference.

Based on the foregoing explanations, Applicants respectfully request that the Examiner withdraw the rejection.

Additional Consideration (Non-obviousness)

A *prima facie* case of obviousness is not established based on the cited reference since the cited reference fails to disclose or suggest the claimed features of the present invention. Likewise, it follows that a person having ordinary skill in the art would not be motivated by any of the teachings of the cited references and by the general knowledge to arrive at the present invention.

Accordingly, the present invention (independent claim 1 and dependent claims) is not obvious over the cited reference.

CONCLUSION

Based upon the amendments and remarks presented herein, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims are allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Toyohiko Konno, Reg. No. L0053, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.147; particularly, extension of time fees.

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Respectfully submitted,

By 

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